

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

THE ESTATE OF JACK C. LUNNEEN,  
Deceased, by Thomas E. Lunneen,  
Personal Representative  
Plaintiff,

vs.

Case 1:20-cv-01007-HYJ-PJG

BERRIEN SPRINGS, a village, ORONOKO  
TOWNSHIP, a municipal corporation, BERRIEN  
COUNTY, a municipal corporation, JAMES WYSS,  
in his individual capacity and in his official  
capacity as officer for Berrien Springs-Oronoko  
Township Police Department, ROGER JOHNSON,  
in his individual capacity and in his official  
capacity as a deputy for the Berrien County  
Sheriff's Department, L. PAUL BAILEY, in his  
individual capacity and in his official capacity as  
Sheriff of the Berrien County Sheriff's Department,  
PAUL E. TOLIVER, in his individual capacity and  
In his official capacity as Chief of Police for the  
Berrien Springs Oronoko Township Police  
Department, and JOHN DOES 1-10, in their individual  
and official capacities,  
Defendants.

HON. HALA Y. JARBOU

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**PLAINTIFF'S EXPERT WITNESS DISCLOSURE**

1. This disclosure supplements all relevant discovery requests Defendants have propounded.
2. Any expert's deposition will supplement this disclosure.
3. Plaintiff will arrange for retained expert witnesses' attendance at depositions, without requiring subpoenas, within applicable deadlines, at reasonable and mutually agreeable times and places, and at Defendants' expense.
4. Plaintiff does not have control over non-retained expert witnesses and therefore cannot guarantee their appearance at depositions. A subpoena will be necessary for non-retained experts. However, for those non-retained experts who are cooperative, Plaintiff will assist in obtaining available times and locations that such witnesses will voluntarily appear for depositions, within applicable deadlines. Plaintiff will further assist in transmitting deposition subpoenas and waivers/acceptances of service of such subpoenas to non-retained expert witnesses.

5. Plaintiff's retained experts may supplement their opinions to respond to opinions rendered by Defendants' expert(s).

6. Plaintiff reserves the right to designate rebuttal witnesses in response to opinions of Defendants' experts.

7. Plaintiff reserves the right to call any defense expert at trial, regardless of whether Defendant ultimately retains or withdraws the expert.

8. Discovery is ongoing. Plaintiff's retained experts may supplement their opinions in light of new evidence.

#### **RETAINED EXPERT WITNESSES**

**1. Jeffrey J. Noble, J.D.**

**Noble Consulting and Expert Witness Services, LLC  
Rancho Santa Margarita, CA  
949-279-4678**

Jeffrey J. Noble is a law enforcement use of force expert. He is a 28-year veteran law enforcement officer rising to the rank of Deputy Chief of Police prior to retirement. As a Deputy Chief, Mr. Noble was directly responsible for all police operations including Patrol, Traffic, Criminal Investigations, Emergency Management, Crim Prevention, DARE, K9s, Training, and SWAT. Mr. Noble has a Juris Doctor degree, with honors from Western State University College of Law and is admitted to practice law in the State of California. Mr. Noble served as a consultant for a number of law enforcement entities to review policy and procedure. He works for both plaintiffs and defendants in civil litigation. Mr. Noble has published works in this area.

Mr. Noble's preliminary report of opinions and conclusions is attached hereto as Exhibit A. The information provided to him and relied upon by him in reaching his conclusions in this case is set forth on pages 4 through 5, section 8 of his report. He will testify to the facts and

opinions contained in his report, to any opinions discussed during his deposition, and to any rebuttal opinions of Defendants' experts if necessary.

His opinions are based on his education, experience, training, and review of the case materials provided to date. It is anticipated that in providing his testimony at trial, Mr. Noble may use case records and materials as exhibits to support his opinions. He may also use demonstrative exhibits to assist the jury and to further explain his testimony including, but not limited to, the videos of the incident that have been produced in the case as well as the photographs, diagrams and tables contained within his report. It is also anticipated that Mr. Noble may rely on demonstrative exhibits of other experts such as Dr. Freeman, Dr. Wohlgernter, Dr. Baden, and Mr. Thornton.

Additional information concerning his background and a list of authored publications are contained in his curricula vitae attached hereto as Exhibit B.

A list of cases where Mr. Noble has testified as an expert witness at trial or by deposition within the preceding four years is included in Exhibit B on pages 5 through 15. Mr. Noble's hourly rate is \$345.00 per hour plus expenses and including all travel time. Mr. Noble's deposition and trial testimony are \$3,450.00 per calendar day or any portion thereof, plus travel time and expenses. His rates are included in paragraph 10 of page 5 of his report which is attached as Exhibit A.

**2. Michael M. Baden, M.D.**  
**15 West 53<sup>rd</sup> Street, Suite 18**  
**New York, NY 10019**  
**212-397-2731**

Dr. Michael Baden is the former Chief Medical Examiner of New York City and past Co-Director of the New York State Police Medico-Legal Investigations Unit. He received a B.S. Degree from the City College of New York and an M.D. Degree from New York University School of Medicine. He trained in internal medicine and pathology at Bellevue Hospital Medical Center

where he was intern, resident, and Chief Resident. He has been a medical examiner for forty-five years and has performed more than 20,000 autopsies. He has held professorial teaching appointments at Albert Einstein Medical School, Albany Medical College, New York University School of Medicine, New York Law School and John Jay College of Criminal Justice. He has been a consultant to the Federal Bureau of Investigation, Veteran's Administration, Bureau of Alcohol, Tobacco and Firearm's, Drug Enforcement Agency and the United States Department of Justice.

Dr. Baden's preliminary report of opinions and conclusions is attached as Exhibit C. He will testify to the facts and opinions contained in his report and to any opinions discussed during an anticipated deposition. His opinions are based on his education, experience, training and review of the case materials provided to date. It is anticipated that in providing his testimony at trial, Dr. Baden may use case records and materials as exhibits to support his opinions. He may also use demonstrative exhibits to assist the jury and to further explain his testimony including, but not limited to, the videos of the incident that have been produced in Plaintiff's case as well as the photographs, diagrams and tables contained within his report. It is also anticipated that Dr. Baden may rely on demonstrative exhibits of other experts such as Dr. Freeman, Dr. Wohlgernter, Mr. Noble, and Mr. Thornton.

Additional information concerning his background and a list of authored publications, if any, are contained in his curricula vitae attached as Exhibit D.

A list of cases in which Dr. Baden testified as an expert witness at trial or by deposition within the preceding four years is attached as Exhibit E, and his hourly rate for deposition and trial testimony is listed in the Fee Schedule attached as Exhibit F.

**3. Michael D. Freeman, MedDr, PhD, MScFMS, MPH, DLM, MFFLM, FAAFS, FACE  
Forensic Research + Analysis  
PO Box 96309  
Portland, OR 97296  
971-255-1008**

Dr. Freeman is an expert in the areas of forensic medicine and forensic epidemiology, with extensive training, background, and experience in medicolegal death investigation. He holds a Doctor of Medicine degree (Med.Dr.) from Umeå University (Sweden), a Doctor of Philosophy (Ph.D.) in epidemiology from Oregon State University, and a Master of Public Health (MPH) in epidemiology and biostatistics, also from Oregon State University, among other degrees.

Freeman's preliminary report of opinions and conclusions is attached as Exhibit G. He will testify to the facts and opinions contained in his report and to any opinions discussed during an anticipated deposition. His opinions are based on his education, experience, training and review of the case materials provided to date. It is anticipated that in providing his testimony at trial, Dr. Freeman may use case records and materials as exhibits to support his opinions. He may also use demonstrative exhibits to assist the jury and to further explain his testimony including, but not limited to, the videos of the incident that have been produced in this case as well as the photographs, diagrams and tables contained within his report. It is also anticipated that Dr. Freeman may rely on demonstrative exhibits of other experts such as Dr. Baden, Dr. Wohlgernter, Mr. Noble and Mr. Thornton.

Additional information concerning his background and a list of authored publications are contained in his curricula vitae attached as Exhibit H. The information provided to him and relied upon by him in reaching his conclusions in this case is set forth on page 1 through 3 of his report.

A list of cases in which Dr. Freeman has testified as an expert witness at trial or by deposition within the preceding four years is attached as Exhibit I, and his hourly rate for deposition and trial testimony is listed in the Fee Schedule attached as Exhibit J.

**4. Daniel Wohlgelernter, M.D.  
229 Century Hill  
Los Angeles, CA 90067  
310-729-2202**

Dr. Wohlgelernter is an expert cardiologist. He is Board Certified in Internal Medicine and Cardiology (Cardiovascular Disease). He is a Fellow of the American College of Cardiology. Dr. Wohlgelernter earned his medical degree from the Yale University School of Medicine in New Haven, Connecticut. He completed his internship and residency in Internal Medicine, as well as a fourth year as chief medical resident, at the Yale Medical Center. He trained in cardiology at Yale, and served on the Yale medical school faculty for two years before joining the UCLA faculty in 1985.

Dr. Wohlgelernter is expected to testify consistently with his report and deposition, if taken. Dr. Wohlgelernter preliminary report of opinions and conclusions is attached as Exhibit K. He will testify to the facts and opinions contained in his report and to any opinions discussed during an anticipated deposition. His opinions are based on his education, experience, training and review of the case materials provided to date. It is anticipated that in providing his testimony at trial, Dr. Wohlgelernter may use case records and materials as exhibits to support his opinions. He may also use demonstrative exhibits to assist the jury and to further explain his testimony including, but not limited to, the videos of the incident that have been produced in this case as well as the photographs, diagrams and tables contained within his report. It is also anticipated that he may rely on demonstrative exhibits of other experts such as Dr. Baden, Dr. Freeman, Mr. Noble and Mr. Thornton.

Additional information concerning his background and a list of authored publications are contained in his curricula vitae attached hereto as Exhibit L. The information provided to him and relied upon by him in reaching his conclusions in this case is set forth in his report.

A list of cases where Dr. Wohlgelernter has testified as an expert witness at trial or by deposition within the preceding four years is attached as Exhibit M, and his hourly rate for deposition and trial testimony is listed in the fee schedule attached as Exhibit N.

**5. Douglas Thornton**  
**Middle West Studios**  
**1938 North Fort Thomas Ave.**  
**Fort Thomas, KY 41075**  
**818-570-3277**

Mr. Douglas Thornton is the President of Middle West Studios where he specializes in visual content analysis and creation, including video and audio forensic analysis. Mr. Thornton's preliminary report of opinions and conclusions is attached hereto as Exhibit O. Also included with Mr. Thornton's report are videos enhanced versions of the body camera footage and 9-1-1 call that were enhanced by Mr. Thornton viewing and audio clarity, as well as analyzed in accordance with his training, experience, education, and review of the case. The videos are attached as Exhibit P.<sup>1</sup> He will testify to the facts and opinions contained in his report and to any opinions discussed during an anticipated deposition. He bases his opinions on his education, experience, training, and review of the case materials provided to date. It is anticipated that in providing his testimony at trial, Mr. Thornton's may use case records and materials as exhibits to support his opinions. He may also use demonstrative exhibits to assist the jury and to further explain his testimony including, but not limited to, the videos of the incident that have been produced in Plaintiff's case as well as the photographs, diagrams and tables contained within his report. It is also anticipated

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<sup>1</sup> Copies of these videos are being mailed to the Court via [Fed-Ex] A dropbox link of the same was emailed to all counsel for Defendants.



that he may rely on demonstrative exhibits of other experts such as Dr. Baden, Dr. Freeman, Mr. Noble and Dr. Wohlgelernter.

Additional information concerning Mr. Thornton's background are contained in his curricula vitae attached hereto as Exhibit Q. The information provided to him and relied upon by him in reaching his conclusions in this case is set forth on in his affidavit and also include the following:

000138 Jim Wyss Body Camera  
000139 Roger Johnson Body Camera Interaction  
000140 Unidentified officer body cam video  
000141 9-1-1 call

Mr. Thornton has not testified as an expert witness at trial or by deposition within the preceding four years, and therefore no list is available for production as would ordinarily be required. Mr. Thornton's hourly rate for deposition and trial testimony is \$700.00.

#### **NON-RETAINED EXPERT WITNESSES**

The following medical doctors and health care providers are non-retained expert witnesses who are expected to testify, within their field of expertise, about their medical diagnosis, treatment, prognosis, observations, and opinions regarding Jack Lunneen's medical condition on October 22, 2018, and/or their postmortem investigation. Plaintiffs may call any person having factual knowledge, whether listed as an expert or not, if otherwise disclosed in records provided during discovery, including answers to interrogatories or documents received during the course of this case. This may include the custodian of records to identify records for purposes of admission at trial, doctors, nurses, physicians, lab technicians, hospital employees, or others that may have had some role in preparing any medical records, rendering treatment, or doing any diagnostic testing of Jack Lunneen.

Plaintiff reserves the right to ask such doctors and health care providers for their expert opinions that are within their knowledge, training and experience or factual information about this case or any issue involving this case. These opinions may encompass medical diagnosis, treatment, prognosis, observations and opinions regarding Jack Lunneen's medical condition, history and cause of death.

The following health care professionals are those that Plaintiff believes, at this time, may be called as witnesses. This is not intended to be a complete list of such health care providers. Plaintiff refer Defendants specifically to the documents they have obtained in this case, answers to interrogatories, medical records, and the depositions taken in this case. Plaintiff specifically reserves the right to supplement this designation.

- 1. Maddi A. Massa, DO  
Jonathon Krauss, DO  
Michael Marhanka, RN  
Lakeland Hospital, St. Joseph  
W Glenlord Road  
St. Joseph, MI 49085**

Drs. Maddi Massa, DO and Jonathon Krauss, DO are Emergency Physicians at Lakeland Hospital in St. Joseph, Michigan. Michael Marhanka, RN, is a Registered Nurse at the Emergency Department at Lakeland Hospital in St. Joseph, Michigan. Drs. Massa and Kraus, along with Nurse Marhanka, provided emergency care for Mr. Lunneen immediately following his encounter with Defendants Johnson and Wyss on October 22, 2018. If called to testify, they will testify as to their observations and opinions regarding their care and treatment of Mr. Lunneen and as to the facts and opinions regarding contained within the medical records from Lakeland Hospital, St. Joseph, Emergency Department relating to Mr. Lunneen.

If called to testify, they will testify in accordance with the medical records including any and all records which were generated on October 22, 2018, which have been provided to counsel

in this matter and their deposition if taken in this matter. If called as a witness at trial, Drs. Massa and Kraus, along with Nurse Marhanka, will also testify to the facts and opinions contained in and based upon this summary; their medical records, notes, and other documentation from October 18, 2018; the medical records of any doctor or medical provider who provided treatment to Mr. Lunneen; conversations between them and any other health care professional, if any; and their depositions, if taken.

Plaintiff reserves the right to supplement Drs. Massa and Kraus, along with Nurse Marhanka, and their opinions based upon review of additional information acquired during discovery, and Plaintiff reserves the right to designate rebuttal testimony by Drs. Massa and Kraus, along with Nurse Marhanka, that may rebut opinions designated or proffered by Defendants' experts. Finally, Plaintiff does not currently possess their current CV and fee schedule; however that information is being requested and will be disclosed to Defendants upon Plaintiff's receipt.

**2. Elizabeth A. Douglas, M.D.**  
**Western Michigan University Homer Stryker M.D. School of Medicine**  
**Department of Pathology**  
**300 Portage Street**  
**Kalamazoo, MI 49007**  
**(269) 337-6137**

Dr. Douglas is the Medical Examiner and Forensic Services Pathologist for Western Michigan University who performed Jack Lunneen's Postmortem Examination Report. As such, she has knowledge or information relating to her report that was subsequently created pursuant to her postmortem examination. Dr. Douglas issued a report related to Mr. Lunneen's death and her depositions was taken in this matter.

If called to testify, it is anticipated that she will testify in accordance with the medical records and her report which have been provided to counsel in this matter and her deposition which was taken in this matter.

Plaintiff reserves the right to supplement this designation based upon review of additional information acquired during discovery. Finally, Dr. Douglas's CV and fee schedule were produced at the time of her deposition and entered as exhibits.

**3. Stephen D. Cohle, M.D.  
Spectrum Health Hospitals  
Blodgett Lab  
1840 Wealthy St. SE  
Grand Rapids, MI 49506  
(616) 774-7444**

Dr. Cohle is a forensic pathologist located in Grand Rapids, Michigan who performed a postmortem examination of Mr. Lunneen's heart. He issued a report of that examination. As such, he has knowledge or information relating to his report and the postmortem investigation of Mr. Lunneen's death.

If called to testify, Dr. Cohle will testify in accordance with the medical records and his report, which have been provided to counsel in this matter and his deposition if taken. If called as a witness at trial, Dr. Cohle, will also testify to the facts and opinions contained in this summary; his medical records; the medical records of any doctor or medical provider who provided treatment to Mr. Lunneen; conversations between him and any other health care professional, if any; and their depositions if taken.

Plaintiff reserves the right to supplement this designation and any opinions of Dr. Cohle based upon review of additional information acquired during discovery, and Plaintiff reserves the right to designate rebuttal testimony by Dr. Cohle, that may rebut opinions designated or proffered by defendants' experts. Finally, Plaintiff does not currently possess Dr. Cohle's current CV and fee schedule; however that information is being requested and will be disclosed to Defendants upon Plaintiff's receipt.

DATED this 18<sup>th</sup> day of January, 2022

Respectfully submitted,

/s/ Noah W. Drew

Sean W. Drew (P33851)

Noah W. Drew (P74355)

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Jackson, Wyoming 83001

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### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on counsel for Defendants in the above-captioned matter on this 18th day of January, 2022, in accordance with the Court's CM/ECF system:

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